

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 03-3500

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JacQaus L. Martin,

Plaintiff-Appellant,

v.

Scott Hayne; Layne Gissler; Mark  
Thompson; Scott Wayman; Unknown  
Officer Riech; Randy Crosby; Will  
Curtis; Barry Lovke; Frank X. Hopkins,  
Michael Kenny,

Defendants-Appellees.

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Appeal from the United States  
District Court for the  
District of Nebraska.

**[UNPUBLISHED]**

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No. 03-4000

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JacQaus L. Martin,

Plaintiff-Appellant,

v.

Frankie White, C.W.; Layne Gissler,  
C.W.; Mikel I. Balderson, Cpl.; Larry  
Pankoke, Cpl.; Scott Hayne, Sgt.;  
Mark Thompson, C.W.; Scott Wayman,  
Cpl.; Otha Lee Serrell; Michael  
Kenny,

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Defendants-Appellees.

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No. 04-2448

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JacQaus L. Martin,

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Plaintiff-Appellant,

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v.

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Scott E. Hayne; Matthew R. Zier;  
Scott S. Wagman; Raymond J.  
Edleman; David Boli; Ortha Lee  
Serrell; Michael Kenny; Nebraska  
Department of Correctional Services,

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Defendants-Appellees.

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Submitted: July 22, 2004

Filed: July 29, 2004

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Before MELLOY, LAY, and COLLOTON, Circuit Judges.

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PER CURIAM.

The above three appeals are consolidated in order to determine whether Plaintiff is entitled to proceed in forma pauperis.

This appeal arises out of the Plaintiff's Complaints that he was sexually assaulted in the year 2000 by prison guards. Three different courts have denied Plaintiff's requests to proceed in forma pauperis. In case No. 04-2448, the district court held that Plaintiff could not proceed in forma pauperis under Federal Rule of Appellate Procedure 24(a)(3) because the appeal was not taken in good faith. As pointed out by the district court, the Plaintiff's appeal was not taken in good faith because the Defendants' summary judgment motion was pending before the district court. We agree and therefore hold Plaintiff may not proceed in forma pauperis in case No. 04-2448.

In cases No. 03-3500 and 03-4000, the Plaintiff appeals, pro se, seeking to proceed in forma pauperis. In both cases the district courts applied 28 U.S.C. § 1915(g), which prohibits the granting of in forma pauperis status to a prisoner who has had three or more actions or appeals dismissed on the grounds that the actions or appeals were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury. In both cases the district courts found that the Plaintiff did not satisfy § 1915(g). We affirm the district courts' orders in both instances. See 8th Cir. R. 47B.

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